SENATE MOTION

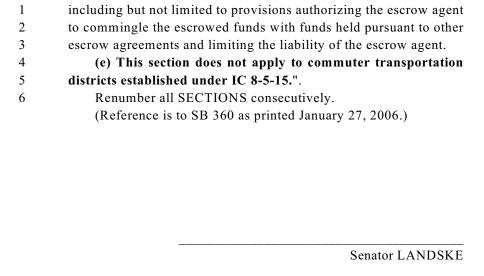
MADAM PRESIDENT:

I move that Senate Bill 360 be amended to read as follows:

Page 4, before line 1, begin a new paragraph and insert:
"SECTION 6. IC 5-16-5.5-3 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. Any state agency
which enters into a contract for any public building, work or
improvement, and any contractor subcontracting portions of such
contract, which contracts contain provision for retainage shall include
in their respective contracts a provision that at the time any retainage
is withheld, the state agency and/or contractor shall place such
retainage in an escrow account, with a bank, savings and loan
institution, or the State of Indiana or an instrumentality thereof, as
escrow agent selected by mutual agreement between the affected
contract parties, pursuant to a written agreement among the bank or
savings and loan institution, the state agency, and the contractor as
appropriate. The escrow agreement shall provide as follows:

- (a) The escrow agent shall promptly invest all escrowed principal in such obligations as shall be selected by the escrow agent in its discretion.
- (b) The escrow agent shall hold the escrowed principal and income until receipt of notice from the state agency and the contractor, or the contractor and the subcontractor, specifying the portion or portions of the escrowed principal to be released from the escrow and the person or persons to whom such portion or portions are to be released. Upon receipt of such notice the escrow agent shall promptly remit the designated portion of escrowed principal and the same proportion of then escrowed income to such person or persons.
- (c) The escrow agent shall be compensated for its services as the parties may agree on a commercially reasonable fee commensurate with fees then being charged for the handling of escrow accounts of like size and duration. The fee must be paid from the escrowed income of the escrow account.
- (d) The agreement may include such other terms and conditions not inconsistent with the foregoing paragraphs (a), (b) and (c)

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